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EXAMINER				
ADDY, THUAN KNOWLIN				
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2614				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/762,974

**Applicant(s)**

MOCK ET AL.

**Examiner**

THJUAN K. ADDY

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed on December 17, 2007 has been entered. Claims 1, 5, 6, 13, 16, 17, 19, and 22 have been amended. No claims have been cancelled. No claims have been added. Claims 1-22 are still pending in this application, with claims 1, 13, 19, and 22 being independent.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9 and 13-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Chaco et al. (US 5,822,544).
3. In regards to claims 1 and 13, Chaco discloses a customer service method and system (e.g., patient care and communication system/health care facility) for handling calls to or from a plurality of callers (e.g., patients), comprising the steps of: retrieving non-vocal physiological data (e.g., alarm, irregular heart beat, etc.) from a caller (See col. 24 lines 12-24); in response to retrieving non-vocal physiological data from the caller, assigning a priority (e.g., highest priority) to the caller among the plurality of callers, wherein the priority assigned is among a number of priority levels based at least

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on the non-vocal physiological data; and routing the caller based on the priority assigned to the caller in relation to other callers among the plurality of callers (See col. 3 lines 48-59, col. 30 lines 17-30, col. 48 lines 33-48, and col. 53-54 Claim 8).

4. In regards to claim 2, Chaco discloses the method, wherein the method further comprises the step of retrieving vocal physiological data from the caller (See col. 50 lines 24-46).

5. In regards to claims 3 and 14, Chaco discloses the method and system, wherein the step of assigning the priority is in response to retrieving non-vocal physiological data (See col. 24 lines 12-24) and vocal physiological data (See col. 50 lines 24-46).

6. In regards to claims 4 and 15, Chaco discloses the method and system, wherein the step of retrieving non-vocal physiological data comprises the step of retrieving at least one among an applied pressure to a phone used by the caller, a heart rate of the caller, a breath content of the caller, a breath rate of the caller a skin conductivity of the caller, an ambient noise level around the phone caller, a body temperature of the caller, and an ambient temperature around the phone caller (See col. 24 lines 12-24).

7. In regards to claims 5 and 16, Chaco discloses the method and system, wherein the method further comprises retrieving a profile (e.g., message) for the caller to determine a value for the caller (See col. 30 lines 17-30 and col. 48 lines 33-48).

8. In regards to claims 6 and 17, Chaco discloses the method and system, wherein the step of routing the caller is based on the priority assigned to the caller and the value determined for the caller (See col. 30 lines 17-30 and col. 48 lines 33-48).

9. In regards to claim 7, Chaco discloses the method, wherein the method further

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comprises the step of increasing the priority given to a high valued caller as determined by the profile of the caller when negative non-vocal physiological data is received from the caller (See col. 48 lines 33-48).

10. In regards to claim 8, Chaco discloses the method, wherein the method further comprises the step of decreasing the priority given to a low valued caller as determined by the profile of the caller when negative non-vocal physiological data is received from the caller (See col. 48 lines 33-48).

11. In regards to claim 9, Chaco discloses the method, wherein the method further comprises the step of performing behavior modification techniques on a low valued caller as determined by the profile of the caller when negative non-vocal physiological data is received from the caller (See col. 30 lines 17-30 and col. 48 lines 33-48).

12. In regards to claim 18, Chaco discloses the system, wherein the processor is further programmed to perform one among the steps of increase the priority given to a high valued caller when negative non-vocal physiological data is received from the caller, decrease the priority given to a low valued caller as determined by the profile of the caller when negative non-vocal physiological data is received from the caller, and perform behavior modification techniques on a low valued caller as determined by the profile of the caller when negative non-vocal physiological data is received from the caller. (See col. 30 lines 17-30 and col. 48 lines 33-48).

13. In regards to claim 19, Chaco discloses a communication device, comprising: a transceiver; a non-vocal physiological detection sensor coupled to the transceiver; and a processor coupled to the transceiver and programmed to transmit non-vocal

physiological data (e.g., alarm, irregular heart beat, etc.) to a third party to alter a call processing procedure at the third party, wherein the call processing procedure involves the assignment of one among a plurality of priority levels to a call from the communication device based on at least the non-vocal physiological data (See Fig. 4, col. 30 lines 17-30, col. 48 lines 33-48, and col. 53-54 Claim 8).

14. In regards to claim 20, Chaco discloses the communication device, wherein the communication device further comprises a presentation device coupled to the transceiver and the processor (See Fig. 4).

15. In regards to claim 21, Chaco discloses the communication device, wherein the processor is further programmed to receive instructions from the third party altering a presentation on the presentation device (See col. 24 lines 25-31).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 10-12 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaco et al. (US 5,822,544), in view of Pavlidis (US 6,996,256).

17. In regards to claim 10, Chaco discloses all of claim 10 limitations, except wherein the method further comprises the step of sending a predetermined presentation to the caller based on the non-vocal physiological data retrieved from the caller. Pavlidis,

however, does disclose sending a predetermined presentation (e.g., relaxing music) to the user based on the non-vocal physiological data (e.g., anxiety, alertness, fear, depression, etc.) retrieved from the user (See col. 11-12 lines 62-5). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to incorporate this feature within the method and system, as a way of detecting the physiological characteristic representative of one or more altered human state, and if needed, providing a presentation, which may be soothing/calming for the user.

18. In regards to claim 11, Chaco discloses all of claim 11 limitations, except wherein the predetermined presentation is at least one among a sound presentation, a picture presentation, a multimedia presentation, and a video presentation. Pavlidis, however, does disclose wherein the predetermined presentation is at least one among a sound presentation, a picture presentation, a multimedia presentation, and a video presentation (See col. 11-12 lines 62-5).

19. In regards to claim 12, Chaco discloses all of claim 12 limitations, except wherein the sound presentation is at least one among a calming music presentation, an irritating music presentation, a calming voice presentation (e.g., relaxing music), and an irritating voice presentation and the picture presentation is at least one among a calming picture presentation and an irritating picture presentation, and the multimedia presentation is at least one among a calming multimedia presentation and an irritating multimedia presentation, and the video presentation is at least one among a calming video presentation and an irritating video presentation. Pavlidis, however, does disclose wherein the sound presentation is at least one among a calming music presentation, an

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irritating music presentation, a calming voice presentation, and an irritating voice presentation and the picture presentation is at least one among a calming picture presentation and an irritating picture presentation, and the multimedia presentation is at least one among a calming multimedia presentation and an irritating multimedia presentation, and the video presentation is at least one among a calming video presentation and an irritating video presentation (See col. 11-12 lines 62-5).

20. In regards to claim 22, Chaco discloses all of claim 22 limitations, except instruction initiating a mood altering presentation to the at least one transceiver in response to receiving the non-vocal physiological data from the at least one transceiver. Pavlidis, however, does disclose instruction initiating a mood altering presentation (e.g., relaxing music) in response to receiving the non-vocal physiological data (e.g., anxiety/tension) (See col. 11-12 lines 62-5).

### ***Response to Arguments***

21. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Menard (US 7,088,233) teaches a personal medical device communication system and method.



23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

24. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to THJUAN K. ADDY whose telephone number is (571)272-7486. The examiner can normally be reached on Mon-Fri 8:30-5:00pm.

26. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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27. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thjuan K. Addy/  
Primary Examiner, Art Unit 2614